

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CATHERINE ALEXANDER,)	
)	
)	
Plaintiff,)	
)	Case no: 3:18-CV-966-SMY-MAB
v.)	
)	JURY TRIAL DEMANDED
TAKE-TWO INTERACTIVE SOFTWARE, INC.;)	
2K GAMES, INC.; 2K SPORTS INC.;)	
WORLD WRESTLING ENTERTAINMENT,)	
INC.; VISUAL CONCEPTS ENTERTAINMENT;)	
YUKE'S CO., LTD.; and YUKE'S LA INC.,)	
)	
Defendants.)	

PLAINTIFF'S MOTION TO ALLOW THE DISCLOSURE OF EXPERT

Plaintiff Catherine Alexander respectfully moves the Court to allow the disclosure of Expert Betsy D. Gelb, Ph.D. after the initial expert deadline. In support of Plaintiff's motion, Plaintiff states the following:

1. The initial deadline for Plaintiff to disclose experts and serve expert reports was November 15, 2018. The initial deadline for Defendant to disclose experts and serve expert reports was December 13, 2018. (Doc. 54).
2. Plaintiff served an expert report of her technical expert, Professor Jose Zagal, and an expert disclosure of her damages expert, Ryan Clark on November 15, 2018. Plaintiff served a supplemental report of Professor Zagal on February 4, 2019. The expert disclosure of Mr. Clark was served due to his inability to opine on damages due to the lack of information produced by Defendants.
3. On December 5, 2019, the parties submitted a proposed amended scheduling order requesting the extension of deadlines approximately 3 months. This request was denied on April 26, 2019 (Doc. 103, 121).

4. Defendant served expert reports of E. Deborah Jay, Ph.D., Ian Bogost, Ph.D., James E. Malackowski and Nina Jablonski on February 7, 2019.

5. Plaintiff served rebuttal expert reports of Mr. Clark and Professor Zagal on February 21, 2019. Defendant served a rebuttal report of Mr. Malackowski on March 7, 2019.

6. On April 25, 2019, Plaintiff served the expert report of Professor Betsy D. Gelb, Plaintiff's survey expert.

7. This matter has been stagnant due to the parties recently denied request to amend the scheduling order that was submitted on December 5, 2019 and denied on April 26, 2019 (Doc. 103, 121).

8. Defendants' expert reports and the Plaintiff's expert report of Professor Gelb were served after the deadline in the initial Scheduling Order entered in this matter. (Doc. 54).

9. Defendants took the deposition of Plaintiff's expert Jose Zagal on August 1, 2019. Defendants are scheduled to take the deposition of Plaintiff's expert Ryan Clark on September 12, 2019. Plaintiffs offered Defendants the date of August 15, 2019 to depose Professor Gelb, but Defendants declined.

10. Counsel for the Take Two Defendants are alleging that Plaintiff's expert, Betsy Gelb, Ph.D.'s report was served untimely and are refusing to proceed with the deposition of Professor Gelb.

11. The parties submitted a Joint Scheduling Order with competing proposals regarding disclosure of additional experts on July 12, 2019 and awaits a response from this Court's decision regarding the parties' proposals.

12. Trial in this matter is currently scheduled for April 27, 2020. Allowing Plaintiff to disclose its expert Professor Gelb will not affect the schedule in this matter and will not prejudice Defendants.

WHEREFORE, Plaintiff respectfully requests that this Court grant Plaintiff's Motion to Allow the Disclosure of its expert, Betsy D. Gelb, Ph.D.

Dated: August 9, 2019

Respectfully submitted,

/s/ Anthony R. Friedman

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon all counsel of record this 9th day of August, 2019 via the Court's CM/ECF system.

/s/ Anthony R. Friedman